

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-173

November 20, 2001

Global NAPs, Inc.  
Petition for Finding of Public Convenience  
and Necessity to Provide Service as a Local  
Exchange Carrier and as a Reseller  
Interexchange Telephone Utility

ORDER GRANTING AUTHORITY  
TO PROVIDE FACILITIES-BASED AND  
RESOLD LOCAL EXCHANGE SERVICE  
AND APPROVING SCHEDULE OF  
RATES AND TERMS AND  
CONDITIONS

---

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

In this Order, the Commission grants Global NAPs, Inc. (Global NAPs or Company) the authority to provide competitive local exchange service as a reseller in the State of Maine and facilities-based local exchange service in the service area of the Portland exchange of Verizon New England Inc. d/b/a Verizon-Maine, and approves the Company's Terms and Conditions and Rate Schedules. We also exempt Global NAPs from the requirements of Chapter 210, *Uniform System of Accounts*, and of 35-A M.R.S.A. §§ 707 and 708, subject to the conditions described below.

**I. APPROVAL OF APPLICATION TO SERVE**

On March 3, 1998, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, Global NAPs filed a petition with the Commission requesting authority to provide resold and facilities-based local exchange telephone service in Maine. Before we grant approval under section 2102 for another public utility to provide service, 35-A M.R.S.A. § 2105 requires us to find that the public convenience and necessity require another utility to provide service in a location where utility is already authorized to provide, or is providing, the same or similar service.

47 U.S.C. § 253(a), enacted by the Telecommunications Act of 1996, states:

(a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.

47 U.S.C. § 253(b) states, however:

(b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued

quality of telecommunications services, and safeguard the rights of consumers.

We find that granting Global NAPs the authority to provide local exchange service will not impede the preservation or advancement of the public interest goals or policies stated in section 253(b).

Global NAPs's application provides reasonable information indicating that its financial and management capabilities are adequate to provide local services in Maine.

## **II. SERVICE TERRITORY**

Global NAPs initially requested authority to provide facilities-based local exchange service throughout the state. It recently has agreed that its facilities-based local exchange authority shall be limited to the Portland exchange of Verizon New England, Inc. d/b/a Verizon-Maine until such time as it is prepared to provide facilities-based resold exchange service in other locations. At this time Global NAPs is only willing and able to provide facilities-based local exchange service to areas within the Portland exchange named.

Global NAPs has agreed that it will be capable of participating in 1000-block pooling of NXX codes. To participate in 1000-block pooling, a carrier must have the capability of providing local number portability (LNP), including "outgoing" LNP. Outgoing LNP allows a carrier, such as Global NAPs, that has "donated" unused blocks of 1000 numbers to the pool, to provide routing information on a default basis in the event that the database of the carrier assigned one of those blocks of 1000 numbers is not available. Global NAPs has provided detailed information about its activities it has undertaken to make itself LNP capable.<sup>1</sup> The interconnection agreement between Global NAPs and Verizon requires Global NAPs to have LNP capability. As stated below, and as stated in all of our orders granting authority to provide local exchange service, it is a condition of the grant of authority that the carrier comply with all terms of its interconnection agreement(s) with ILECs. If Global NAPs seeks to expand its facilities-based service area, we will review at that time its progress toward achieving LNP capability.

Global NAPs will have authority to provide local exchange service as a reseller throughout the state. Global NAPs states that it will offer service as a reseller of local exchange service provided by other authorized local exchange carriers (LECs). We define local resale as the offering of local exchange service purchased from another competitive local exchange carrier (CLEC) pursuant to 47 U.S.C. § 251(b)(1) or from an incumbent local exchange carrier (ILEC) at a wholesale discount pursuant to 47 U.S.C. § 251(c)(4). The purchase of unbundled network elements from an ILEC and their use in providing local exchange service is facilities-based service and is not resale. Global

---

<sup>1</sup>This information is in the form of e-mails from Global NAPs's counsel and is included in the case file.

NAPs's authority to provide local exchange service is limited to facilities-based service in the exchanges names above (and to resale throughout the state) unless it obtains further authorization from the Commission.

If Global NAPs wishes to expand the scope of its authority in the future to provide additional facilities-based switched local exchange services, it shall seek approval pursuant to 35-A M.R.S.A. § 2102, requesting the Commission to amend this Order. Any such request must specify the specific exchanges where it proposes to offer service and include information establishing a readiness to provide facilities-based local exchange service within six months in the specifically identified areas. In addition, Global NAPs shall provide information about whether it is LNP-capable.

### **III. APPROVAL OF TERMS AND CONDITIONS AND RATE SCHEDULES**

We allow the terms and conditions proposed by Global NAPs to go into effect. Global NAPs has used the Commission's standard terms and conditions that comply with Maine law and the Commission's Rules. We have reviewed the Company's terms, conditions and rate schedules, and they appear to comply with Maine law and the Commission's Rules. Nevertheless, if there is any conflict between a provision in Global NAPs's terms and conditions and the Commission's Rules or a statute, the rule or statute will control. Included in the Terms and Conditions is a provision stating that in the event of such a conflict, the statute or the Commission's rule will control.

In general, the Commission believes that a competitive telecommunications market results in services and rates that benefit the public. We believe that the acceptability of Global NAPs's services and rates in the market place provides an adequate test of the reasonableness of the Company's rates. Accordingly, we allow the rates proposed by Global NAPs to go into effect.

### **IV. INTERCONNECTION AGREEMENT(S)**

In order to provide local exchange service, a competitive CLEC must, as a practical matter, obtain an interconnection agreement with the ILEC(s) providing service in any area where it intends to provide service. In the absence of such an agreement, it will not be possible for Global NAPs's customers to call customers of the ILEC(s), and vice versa. Interconnection agreements are governed by 47 U.S.C. § 252, and must be approved by this Commission.

If a CLEC makes a bona fide request for an interconnection agreement with an ILEC that is a "rural telephone company" as defined in 47 U.S.C. § 153(37), the "rural exemption" of 47 U.S.C. § 251(f) will apply. All of Maine's independent incumbent local exchange carriers are "rural telephone companies." A rural telephone company is not required to negotiate an interconnection agreement or provide interconnection until after the Commission, pursuant to 47 U.S.C. § 251(f)(1)(B), finds that the requirement "is not unduly economically burdensome, is technically feasible, and is consistent with [the universal service provisions of] section 254 . . . ." Although the service territory we grant

today for resold services is statewide and Global NAPs's terms and conditions do not limit its service territory, as a practical matter it cannot offer local exchange service in the service territory of a rural ILEC until such time as that ILECs rural exemption is terminated.

On September 16, 2001 in Docket No. 98-662, the Commission approved an agreement between Global NAPs and Verizon Maine pursuant to 47 U.S.C. § 252. As a condition of providing local exchange service, Global NAPs must comply with the terms of any interconnection agreements that it has reached with any ILECs and that have been approved by the Commission.

## **V. WAIVERS; REPORTING REQUIREMENTS**

As a condition of providing local exchange service, Global NAPs must comply with the terms of any applicable Commission orders or rules that may govern local interconnection and compensation for interconnection. Global NAPs shall also comply with any applicable Commission Rules or orders that govern universal service, public safety and welfare, service quality and consumer rights.

Global NAPs has requested a waiver from the requirements of Chapter 210 of the Commission's Rules, which governs telephone utility accounting. It has not requested a waiver from 35-A M.R.S.A. §§ 707 and 708, which govern reorganizations and affiliated interests, but the Commission has the authority to grant such a **waiver** on its own motion. We grant both waivers. Because Global NAPs's rates and operations are likely to be subject to market forces, we do not see any present need to subject the Company to those requirements. However, Global NAPs must report its annual intrastate gross operating revenues its annual intrastate minutes for use for the purpose of determining its regulatory assessment, and such other information requested by the Commission.<sup>2</sup> If Global NAPs resells service to other telephone service providers, the Company must maintain its records so that it may separately identify those sales.

In addition, Global NAPs shall inform the Commission of any changes to its corporate structure and ownership and of any changes in the name under which it does business, as set forth in Ordering Paragraph No. 3. If necessary, it shall also refile its rate schedules and terms and conditions to reflect its new identity.

## **VI. OTHER REQUIREMENTS**

Global NAPs shall comply with all applicable rules of the Commission and statutes of the State of Maine.

---

<sup>2</sup>The Commission mails the annual reporting forms to carriers in January of each year. The completed forms are due by April 1 of each year.

**VII. ORDERING PARAGRAPHS**

Accordingly, we

1. Grant, pursuant to 35-A M.R.S.A. §§ 2102 and 2105, the request of Global NAPs to provide facilities-based local exchange service in the area of the Portland exchange of the New England Telephone and Telegraph Company d/b/a Bell Atlantic-Maine and competitive local exchange telephone service as a reseller in all areas of the State of Maine;

2. Exempt Global NAPs from the requirements of Chapter 210 of the Commission's Rules, except that it must report the revenue and minutes of use information that is requested by the Commission, on or before April 1 of each year; and

3. Exempt Global NAPs from the approval requirements of 35-A M.R.S.A. §§ 707 and 708, provided that Global NAPs shall notify the Commission of any reorganization, as defined in 35-A M.R.S.A. § 707(1)(A), that results in a merger, sale or transfer of a controlling interest of Global NAPs or of any entity that owns more than 50% of Global NAPs. Global NAPs shall also provide notice of any other changes in the name under which it does business (d/b/a), any change of the location of its business office, and any change of its contact person. Global NAPs shall provide the Administrative Director of the Commission with notice of any of the changes described within 30 days following the change. If necessary, Global NAPs shall amend its rate schedules and terms and conditions to reflect any change in identity.

4. Order that Global NAPs's proposed terms and conditions and rate schedules (pages Table of Contents - 11), filed on October 1, 2001, and attached to this Order, shall be effective on the date of this Order.

5. Order that Global NAPs shall comply with all applicable rules of the Commission.

Dated at Augusta, Maine this 20<sup>th</sup> day of November, 2001.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.